THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16942 of 2007

Dated: 13.08.2007

Between:

Kosaraju Raja Kumar.

..... PETITIONER

AND

The District Collector, Eluru, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16942 of 2007

ORDER:

The petitioner is resident of Epigunta Village, T.Narsapuram Mandal, West Godavari District. He alleges that land to an extent of Acs.2.36 in R.S.No.329 and Acs.2.73 in R.S.No.503 was assigned in favour of his father and land to an extent of Acs.5.00 in R.S.No.329 was assigned in his favour. He was, however, in occupation of land admeasuring Acs.7.73 in R.S.Nos.329 and 503. Alleging that third respondent encroached upon the pathway in R.S.Nos.347 and 348 where he raised banana crop, the petitioner approached second respondent and gave a complaint dated 25.05.2006, in vain. Therefore, he filed W.P.No.27059 of 2006 seeking a direction to respondents 1 and 2 to take necessary action. By order dated 03.01.2007, this Court disposed of said writ petition observing that second

respondent may look into the complaint and pass necessary orders after conducting enquiry, if it is found that third respondent encroached upon the Government land. In obedience thereto second respondent conducted enquiry and rejected the request of the petitioner to provide pathway to his land through a bit of private land. The same was informed to the petitioner by proceedings dated 26.03.2007, aggrieved by which instant writ petition is filed seeking a direction to respondents 1 and 2 to provide pathway to the land of the petitioner in R.S.No.329.

After hearing the learned counsel for the petitioner and the learned Assistant Government Pleader for Revenue (General-A), this Court is convinced that the writ petition is wholly misconceived. It is not within the powers or purview of the revenue authorities to provide pathway to private persons through private lands. If any person claims such pathway by way of easement, being *dominant servient*, such person has to seek necessary declaration in the Civil Court and the writ petition is not a proper remedy. The petitioner is seeking pathway in a part of the private land, which is clear from the perusal of the following impugned order.

> The petitioner land is situated in R.S.No.329 within the following boundaries.
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> North : R.S.No.341 private zeroity land
> South : R.S.No.328 private zeroity land
> East : The private zeroity land in R.S.No.347, 326
> West : Private zeroity land in R.S.No.330 & 328
>
> So, the petitioners land is surrounded by on all 4 sides other private zeroity lands. There is a punta (Cart track poramboke) in R.S.No.348 measuring Ac.0.70 cts on the southern side of the in R.S.No.346 connecting to gravel road in R.S.No.349, 350, on the eastern side leads to Epigunta village. The encroachments in R.S.No.348 measuring Ac.0.70 cts was already evicted and got removed. The R.S.No.348 is in between the patta land of 346 and 347 part relating to the family members of 3rd respondent Smt.Modukuri Nagamani w/o Venkatarao. In between the land of the petitioner in R.S.No.329 and the punta (cart track poramboke) in R.S.No.348, there is a bit of private land in R.S.No.347 relating Smt.M.Nagamani, 3rd respondent on the eastern side of petitioners lands for which the Government is not concerned as it may not possible to provide pathway through the bit of private land connecting to petitioner's land. There are several zeroity lands of others in the vicinity without any pathway direct to their fields. The ryots are used to go to their fields through the lands on noted coordination and understandings of among them. Hence Sri K.Raj Kumar s/o Seetharamayya is informed that it is not at all possible to provide pathway to his land through a bit of private land on eastern side connecting punta (cart track poramboke) in R.S.No.348.

The petitioner is given liberty to file a civil suit if he claims easement right through the land of third respondent.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

13th August, 2007
ghn